

Court of Appeals, State of Michigan

ORDER

People of MI v Gary Edward Davenport

Docket No. 271366

LC No. 05-092269-FC

Patrick D. O'Connell
Presiding Judge

Patrick M. Meter

Stephen L. Borrello
Judges

The Court orders that the motion for reconsideration is GRANTED.

The Court orders that the motion to remand pursuant to MCR 7.211(C)(1) is GRANTED, and this case is remanded back to the circuit court to conduct a hearing in accordance with *People v Ginther*, 390 Mich. 436; 212 N.W.2d 922 (1973). Within 14 days of the certification this order, appellate counsel shall file the motion with the circuit court that is limited to the issues raised in the motion for remand. If appellate counsel fails to file the motion within the time allotted, the appellate proceedings in this Court resume immediately. Otherwise, the appellate proceedings in this Court will resume upon the entry of circuit court's order deciding the motion.

Within 56 days of the certification of this order, the circuit court shall hear and decide the motion. The circuit court shall make findings of fact and a determination on the record. Within 14 days of its entry, appellate counsel shall file with this Court a copy of the order memorializing the circuit court's determination with this Court. Within 21 days of the completion of the proceedings below, the circuit court shall order and the court reporter shall file with this Court a copy of the transcript for any hearing conducted on remand.

This Court retains jurisdiction.

Meter, J. would DENY the motion for reconsideration.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 05 2007

Date

Sandra Schultz Mengel
Chief Clerk